

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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CHARLES E. MCDONALD, JR.,

Plaintiff,

v.

D. PRATER, et al.,

Defendants.

Case No. 2:19-cv-00192-RFB-EJY

REPORT AND RECOMMENDATION

On July 21, 2020, at which time Plaintiff was incarcerated, the Court issued its Screening Order granting Plaintiff's Application to Proceed *in forma pauperis*, ordering a stay of this action for 90 days, and referring the matter to the Court's Inmate Early Mediation ("IEM") Program. ECF No. 10. On October 27, 2020, the Court learned that Plaintiff was no longer incarcerated and, as a result, vacated the IEM, ordered the stay to remain operative through the IEM date, and directed Plaintiff to file "written notification of his email address and telephone number on or before November 25, 2020." ECF No. 17 at 1.

On November 30, 2020, the Court entered an Order advising Plaintiff that Local Rule 1A 3-1 requires him to file with the Court any change in address, as well as his telephone number and email address, so that Plaintiff may be properly contacted by the opposing party and the Court as needed. ECF No. 19 at 1. The Court found Plaintiff was not compliant with the October 27, 2020 Order because he did not "provide an email address or telephone number to the Court and opposing counsel." *Id.* Plaintiff was ordered to provide his email address and telephone number by December 30, 2020. *Id.* However, the Court's Order also stated "that if Plaintiff does not have an email address or telephone number, Plaintiff must file a notice so stating." *Id.*

On January 26, 2021, the Court issued its Order to Show Cause, directing Plaintiff to "show cause, in writing, no later than February 16, 2021, why Plaintiff should not be sanctioned for contempt of court," and this matter should not be dismissed for failing to comply with the Court's Order. ECF No. 21 at 1. Plaintiff was warned that failing to timely respond to the Order to Show

1 Cause “shall result in a recommendation to dismiss this action.” *Id.* As of the date of this Order,
2 Plaintiff has not responded to the Order to Show Cause.

3 Accordingly,

4 IT IS HEREBY RECOMMENDED that Plaintiff’s action be DISMISSED without prejudice.

5 DATED THIS 26th day of February, 2021.

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7 
8 ELAYNA J. YOUCHAH
UNITED STATES MAGISTRATE JUDGE

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10 **NOTICE**

11 Pursuant to Local Rule IB 3-2, any objection to this Finding and Recommendation must be
12 in writing and filed with the Clerk of the Court within fourteen (14) days. The Supreme Court has
13 held that the courts of appeal may determine that an appeal has been waived due to the failure to file
14 objections within the specified time. *Thomas v. Arn*, 474 U.S. 140, 142 (1985). This circuit has also
15 held that (1) failure to file objections within the specified time and (2) failure to properly address
16 and brief the objectionable issues waives the right to appeal the District Court’s order and/or appeal
17 factual issues from the order of the District Court. *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir.
18 1991); *Britt v. Simi Valley United Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).